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Molly C. Dwyer
Clerk of Court
U.S. Court of Appeals for the Ninth Circuit
95 Seventh Street
San Francisco, CA 94103

Re: *Lindsay Hecox and Jane Doe with her next friends Jean Doe and John Doe v. Bradley Little, et al., and Madison Kenyon and Mary Marshall, Nos. 20-35813, 20-35815*

Dear Ms. Dwyer:

Pursuant to Federal Rule of Appellate Procedure 28(j), Plaintiff-Appellee Lindsay Hecox writes to inform the Court that on February 22, 2023, in *B.P.J. v. West Virginia State Board of Education et al.*, the U.S. Court of Appeals for the Fourth Circuit granted B.P.J.'s motion for an injunction pending appeal and stayed the district court's order dissolving the preliminary injunction that had allowed B.P.J. to participate in middle school sports for the last year-and-a-half. No. 23-1078, Dkt. 50 (4th Cir. Feb. 22, 2023) (attached hereto as Ex. A). As a result, West Virginia's categorical ban against transgender women and girls playing school sports again cannot be applied to B.P.J., pending appeal.

Plaintiff's recent letter brief noted B.P.J.'s pending motion for a stay pending appeal in the Fourth Circuit. (Dkt. No. 194 at 12-13.) In granting B.P.J.'s motion, the Fourth Circuit "construe[d]" B.P.J.'s "motion for stay pending appeal . . . as a motion for an injunction pending appeal" and granted her request for relief. (Ex. A at 2.) In so doing, the Fourth Circuit necessarily concluded that B.P.J. made the "strong showing that [she is] likely to succeed on the merits" that is required for an injunction pending appeal to issue. *Grimmett v. Freeman*, 2022 WL 3696689, at *1 (4th Cir. Aug. 25, 2022) (quoting *Nken v. Holder*, 556 U.S. 418, 426 (2009)).

The Fourth Circuit's grant of an injunction pending appeal to B.P.J. is consistent with the several other decisions striking down anti-transgender sports bans discussed in Plaintiff's letter brief. (See Dkt. No. 194 at 10-12.)

Sincerely,

/s/ Kathleen R. Hartnett

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